

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HUDSON FURNITURE, INC., and BARLAS BAYLAR,

Plaintiffs,

-against-

ALAN MIZRAHI d/b/a/ ALAN MIZRAHI LIGHTING, and
LIGHTING DESIGN WHOLESALERS, INC.

Defendants.

1:20 Civ. 04891 (PAC)

OPINION & ORDER

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HONORABLE PAUL A. CROTTY, United States District Judge:

On October 20, 2023, Defendant moved for leave to file an interlocutory appeal of this Court's Order of September 25, 2023 granting partial summary judgment to Plaintiffs on the issues of liability for trademark infringement, copyright infringement, and analogous state law claims. *See* ECF Nos. 160, 161. For the following reasons, Defendant's motion is DENIED.

Under 28 U.S.C. § 1292(b), a district court may certify an order for interlocutory appeal when it is "of the opinion that such order involves [1] a controlling question of law [2] as to which there is substantial ground for difference of opinion and [3] that an immediate appeal from the order may materially advance the ultimate termination of the litigation." 28 U.S.C. § 1292(b). Without deciding the first two factor's, the Court finds that Defendant's motion fails on the final factor, that immediate appeal will "materially advance the ultimate termination of the litigation." *Id.* This litigation is in its final stage. All that remains is a determination of damages. *See* Plaintiff's Letter 1, ECF No. 163 (indicating that Plaintiffs "intend to discontinue

the claims asserted in Counts I through VI in the interest of efficiency” upon entry of final judgment on their other claims). Judicial economy is better served by determining both liability and damages before granting leave for appeal. Granting Defendant immediate relief runs the risk of generating multiple appeals on damages and liability, and unnecessarily delays the ultimate disposition of this case.

Defendant’s motion for leave to file an interlocutory appeal is DENIED. The Clerk is directed to terminate the motion at ECF No. 161.

Dated: New York, New York
October 26, 2023

SO ORDERED

A handwritten signature in black ink, appearing to read "Paul A. Crotty", is written over a horizontal line.

PAUL A. CROTTY
United States District Judge